IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.16947 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEPUTY EXECUTIVE ENGINEER,
PANCHAYAT SUB-DIVISION-1, MUNDRA, DIST.KUTCH

Versus

VERABHAI KESHABHAI MAKWZANA

Appearance:
MR. H.S. MUNSHAW for Petitioner
MR. T.R. MISHRA for Respondent

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 23/02/2005

ORAL JUDGEMENT

1. Rule.

Mr.T.R.Mishra, learned Advocate, appears and waives service of Rule on behalf of the respondent.

At the request of Mr.H.S.Munshaw, learned Advocate for the petitioner, and with the consent of the learned Advocate for the respondent, the matter is taken up for final disposal.

2. The petitioner is before this Court being aggrieved of Judgement and Award dated 8th January, 2004

passed by the learned Judge of the Labour Court, Gandhidham-Kutch in Reference (LCG) No.110 of 1996, bearing Old Reference (LCR) No.505 of 1989. The learned Judge was pleased to order reinstatement with full back-wages with continuity of service and consequential benefits.

3. The learned Advocate appearing for the respondent requests that the impugned judgement and award is an ex parte award and, therefore, the petitioner be granted an opportunity to present its case. He submitted that despite the fact that earlier, when the Reference was before the Labour Court, Rajkot, the petitioner had engaged an Advocate and even thereafter, when the matter was transferred to Gandhidham, the petitioner had engaged another Advocate, for unavoidable reasons, the matter was not contested properly and an ex parte award is passed. He requests that by compensating the respondent-workman by awarding reasonable costs, the petitioner be given an opportunity to defend the case and the matter be decided afresh.

4. Mr.T.R.Mishra, learned Advocate appearing for the respondent-workman, strenuously contested the matter and submitted that the Reference is of the year 1989 and after a prolonged litigation, after about fifteen years, an award is passed in January-2004. He submitted that now interfering with the award and remanding the matter, will result in further delay and waiting for the respondent-workman.

5. Having heard the learned Advocates for the parties and having taken into consideration the rival contentions of both the learned Advocates, particularly, the fact that the petitioner being District Panchayat, this Court deems it fit to quash and set aside the judgement and award of the learned Judge and remand the matter to the learned Judge of the Labour Court, Gandhidham-Kutch, with a direction that he shall give top priority to the hearing of the matter and decide the same as early as possible, but not later than 31st May, 2005.

This direction is given on an assurance given by both the learned Advocates appearing in the matter that their counterparts will extend full cooperation to the learned Judge to decide the matter in the aforesaid time frame and that they will not seek any avoidable adjournment.

6. With the aforesaid direction, the petition is partly allowed. Rule is made absolute.

The petitioner is directed to pay Rs.15,000=00 to the respondent-workman towards costs of litigation. This amount will not be liable to be adjusted towards any claim, which the respondent-workman may be awarded on fresh adjudication.

(Ravi R. Tripathi, J.)

kamlesh*